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FM AMEMBASSY VALLETTA  
TO SECSTATE WASHDC IMMEDIATE 1823  
DEPT OF JUSTICE WASHDC IMMEDIATE  
DEPT OF TREASURY WASHDC IMMEDIATE

UNCLAS VALLETTA 000479

STATE for INL, EUR/WE, DS/IP/EUR, DS/DSS/ATA, EB/ESC/TFS  
JUSTICE for OIA and AFMLS  
TREASURY for FINCEN

E.O. 12958: N/A

TAGS: [SNAR](#) [EFIN](#) [KCRM](#) [KTFN](#) [ASEC](#) [MT](#)

SUBJECT: Malta: 2008 INCSR Submission: Part II - Money

REF: (A) STATE 103813  
(B) VALLETTA 00450

¶1. (U) Embassy Valletta submits this Part II of the 2008 International Narcotics Control Strategy Report (INCSR) for Malta. The response is generally keyed to questions posed in reftel A related to "Money Laundering and Financial Crimes" and should be read in conjunction with Part I, reftel B. Note: Valletta is a former SEP post.

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STATUS OF COUNTRY:  
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¶2. (U) Malta joined the European Union (EU) on May 1, 2004. To comply with EU directives, Malta strengthened its regulatory regime and introduced measures to attract European investors and to shed its image as an offshore tax haven. Malta has made significant headway, introducing EU-compliant legislation for the prevention of money laundering and strong financial services legislation. Malta does not appear to have a serious money laundering problem.

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OFFSHORE FINANCIAL CENTERS:  
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¶3. (U) Since 1997, Malta has been closing the loopholes on all offshore financial activities; and Malta modernized its banking legislation to comply with OECD standards. All licenses for offshore registered businesses expired on September 30, 2004, completing Malta's transition from an economy with over 400 international business corporations in 2001 to a country where offshore banking and business is no longer legal. Companies and trusts appear to be well regulated; international entities are subject to 35 percent tax, which is reduced to 5 percent if the entity invests over \$1 million in Malta. Bearer shares or anonymous accounts are no longer permitted in Malta.

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LAWS AND REGULATIONS:  
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¶4. (U) The Government of Malta (GOM) criminalized money laundering in 1994. Maltese law imposes a maximum punishment of one million Maltese Lira (approximately \$3 million USD) and/or 14 years imprisonment for those convicted of money laundering crimes. Also in 1994, the GOM issued the Regulations for the Prevention of Money Laundering, applicable to financial and credit institutions, life insurance companies, and investment and stock brokerage firms. These regulations impose requirements for customer identification, record keeping, the reporting of suspicious transactions, and the training of employees in anti-money laundering topics. In 2003, a new set of regulations combining the 1994 money laundering act and the Second EU Directive on the Prevention of Money Laundering became national law; these regulations expanded anti-money laundering requirements to designate non-bank financial businesses and professions. In 2007, the Money Laundering Act was amended to strengthen the Attorney General's powers of investigation and the fines imposed on offenses.

¶5. (U) The Maltese Financial Services Authority (MFSA) is the regulatory agency responsible for licensing new banks and financial institutions; additionally the MFSA has been responsible for monitoring financial transactions going through Malta since the supervisory function of the Central Bank of Malta was passed to the MFSA in 2002. In 2005, the MFSA widened its regulatory scope to encompass banking, insurance, investment services, company compliance, and the stock exchange. The MFSA has a rigorous process of analyzing companies prior to granting a license. This entails detailed analyses of all the applications it receives, including information about the directors and other persons involved in the management of the company.

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FINANCIAL INTELLIGENCE UNIT:  
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¶6. (U) In 2001, Malta's parliament established the Financial Intelligence Analysis Unit (FIAU) through an amendment to the Prevention of Money Laundering Act, 1994, to serve as Malta's Financial Intelligence Unit (FIU). The unit became fully functional in 2002. The FIAU is independent and has a board that consists of members nominated by the Central Bank of Malta, the MFSA, the Police, and the Attorney General. Board members are not subject to the direction or control of their parent agency or any other authority.

¶7. (U) The FIAU co-ordinates the fight against money laundering, collects information from financial institutions, and liaises with parallel international institutions as well as the MFSA and the GOM Police. The GOM requires banks, currency exchange offices, stockbrokers, insurance companies, money remittance/transfer services, and other designated non-bank financial businesses and professions to file suspicious transaction reports (STRs) with the FIAU, which investigates them. The FIAU also conducts organized training sessions for Maltese financial practitioners to make them aware of their responsibilities.

¶8. (U) The FIAU is leading an initiative to consolidate all guidance notes for all of the covered financial services and other businesses. In 2003, the FIAU, together with the Banking Unit at the MFSA, updated the Guidance Notes for Credit and Financial Institutions issued by the Central Bank of Malta in 1996.

¶9. (U) There is no monetary threshold that requires the generation and filing of a STR. Instead, the circumstances surrounding the transaction dictate the necessity of a STR -- regardless of whether the transaction is completed. The FIAU received 46 STRs in 2004 and, 68 STRs January through November 2005, 78 STRs in 2006, and down to 63 in 2007. We expect that enforcement will continue to improve as the FIAU continues analyzing STRs for referral for police investigation. Malta has also moved to bolster the prosecutorial opportunities for financial crime. The GOM has recently designated one of the country's five prosecutors to deal solely with money laundering cases. Bank secrecy laws are completely lifted by law in cases of money laundering (or other criminal) investigations.

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TERRORIST FINANCING:  
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¶10. (U) In 2002, the Council of Europe Select Committee of Experts on the Evaluation of Anti-Money Laundering Measures (MONEYVAL) conducted a second round mutual evaluation of the overall effectiveness of the Maltese anti-money laundering system and practices, including compliance with the FATF Special Recommendations on Terrorist Financing. The review found that Malta was in partial compliance with Special Recommendation No.1 (ratification and implementation of UN instruments), because it had signed and ratified the pertinent UN Conventions, but had not yet fully implemented UNSCRs 1269,1373, and 1390.

¶11. (U) Since the 2002 evaluation, Malta has criminalized terrorist financing and taken several steps to consolidate its legal framework for countering "acts of terrorism, funding of terrorism, and ancillary offenses." In late 2002, the criminal code was amended in such a way that terrorist financing would meet the standard for categorization as a "serious crime" under Malta's Prevention of

Money Laundering Act. On June 6, 2005, the Act was extensively amended and expanded to include provisions for offences of terrorism and funding of terrorism and to make ancillary amendments for the prevention of such funding. In addition, the Act broadened the money laundering mission of Malta's Financial Intelligence Unit. Now, the FIAU has authority to focus on terrorism funding. In 2005, Malta adopted a legal notice on "Prevention of Money Laundering and Funding of Terrorism Regulations" under the Prevention of Money Laundering Act of 1994 and has successfully implemented UNSCR 1373.

¶12. (U) In May 2005, the European Parliament adopted the Third EU Directive on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing. Member States have agreed to implement the Directive within two years after its publication in the European Union's Official Journal, which occurred on November 25, 2005. The Third Directive only required marginal changes in Maltese legislation as Malta was already in substantial compliance with the enumerated requirements. This directive builds on existing EU legislation and incorporates into EU law the June 2003 revision of the Forty Recommendations of the Financial Action Task Force (FATF). [Note: FATF is an inter-governmental body whose purpose is to develop and promote policies, both at national and international levels, to combat money laundering and terrorist financing. End Note.] The Directive is applicable to the financial sector as well as lawyers, notaries, accountants, real estate agents, casinos, trust, and company service providers. Its scope also encompasses all providers of goods, when payments are made in excess of 15,000 euros. Those subject to the Directive are required to: (1) identify and verify the identity of their customers and of its beneficial owner, and to monitor their business relationship with the customer; (2) report suspicions of money laundering or terrorist financing to the public authorities; (3) take supporting measures, such as ensuring proper training of personnel and establishment of appropriate internal preventive procedures, and; (4) introduction of additional requirements and safeguards for situations of higher risk (e.g., trading with correspondent banks situated outside the EU).

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ASSET FORFEITURE/SEIZURE:  
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¶13. (U) The MFSA circulates to its financial institutions the names of individuals and entities included on the UNSCR 1267 Sanctions Committee's consolidated list. To ensure compliance, the list is posted on the MFSA website and the MFSA contacts every financial institution directly to confirm whether or not the institution has done business with any person or entity appearing on the consolidated list. To date, no assets have been identified, frozen, and/or seized as a result of this process. Please refer to the "freezing funds" section of para 17.

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CASH SMUGGLING:  
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¶14. (U) Alternative remittance systems such as hawala, black market exchanges, and trade-based money laundering do not appear to be a problem in Malta. Such activities are against the law in Malta, those participating in such activities would be prosecuted if discovered. Anyone wishing to raise money for charitable reasons must receive a government license.

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INTERNATIONAL COOPERATION:  
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¶15. (U) Malta is a founding member of the MONEYVAL and chaired the committee until December 2003. The FIAU became a member of the Egmont Group in July 2003. Malta is no longer a member of the Offshore Group of Banking Supervisors, but has joined the International Organization of Securities Commissions (IOSCO). Malta is a party to the 1988 UN Drug Convention, the UN Convention against Transnational Organized Crime and the UN International Convention for the Suppression of the Financing of Terrorism. Malta has ratified the Council of Europe Convention on Laundering, Search, Seizure, and Confiscation of the Proceeds from Crime and the Council

of Europe European Convention on the Suppression of Terrorism, and has amended its criminal code to be in alignment with these conventions.

¶16. (U) A Maltese statute, the Prevention of Financial Markets Abuse Act, which came into force on March 22, 2005, transposes and implements the provisions of the EU Market Abuse Directive (2003/6/EC) together with its implementing measures and provides for the repeal of the Insider Dealing and Market Abuse Offenses Act. The purpose of the Prevention of Financial Markets Abuse Act is to safeguard the integrity of Maltese and Community financial markets and to enhance investor confidence. The Act applies to financial instruments admitted to trading on a regulated market in Malta or in any other Member State or EEA State, or for which a request has been made for admission to trading. The provisions of the Act affect the following categories: issuers and their managers and other insiders; financial intermediaries; ordinary investors; journalists, researchers and disseminators of financial recommendations; national statistics bodies; competent authorities in Malta and abroad and operators of recognized investment exchanges.

¶17. (U) An innovative feature of the Act is the provision for two separate sanctions and procedures against market abuse. Provision is made for administrative sanctions by the competent authority as well as for criminal sanctions imposed by the criminal courts. In 2005, Maltese law enabled the Attorney General's office to request the criminal court to freeze funds by issuing a written order known as the "freezing order."

¶18. (U) Another Act introduced in 2005 is the Money Declaration Act which specifies that any person entering or leaving Malta and carrying a sum equivalent to 5,000 Maltese Lira (roughly \$15,000) or more in cash shall be obliged to declare that sum to the Comptroller. A person who makes a false declaration for the purposes of these regulations or who does not fulfill the obligation to declare such sum shall be guilty of an offense and shall, on conviction, be liable to a fine equivalent to 25% of the value represented on the date of entry or leaving Malta, by the cash carried, but in any case not exceeding a fine of twenty thousand Maltese Lira (roughly \$60,000).

¶19. (U) Please contact PolOff Monica Cummings with any questions related to the report.

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